

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No. 5:14-CV-60-FL**

TIMOTHY P. DANEHY,)
)
Plaintiff,)
)
vs.)
)
JAFFE & ASHER, LLP and WILLIAM)
J. ALLEN)
)
Defendants.)
_____)

**MOTION TO DISMISS PURSUANT TO
F.R.C.P.12(b)(4) and(6)**

Pursuant to Rules12(b)(4) and (6) of the Federal Rules of Civil Procedure, Defendants Jaffe & Asher, LLP, Lawrence M. Nessonson and William J. Allen (collectively “Defendants”) move the Court to dismiss the various claims asserted by Plaintiff Timothy P. Danehy (“Plaintiff”). In support of this Motion, Defendants state as follows:

1. The claims in Plaintiff’s First Amended Complaint (Docket No. 6) arise from Defendants’ efforts to collect a debt. Plaintiff asserts that Defendants’ collection activities violated various provisions of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§1681 *et. seq.*, the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§1692 *et. seq.*, and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. §§227 *et. seq.*

2. As set forth in detail in Defendants’ Memorandum of Law in support of this Motion, the factual allegations in the Complaint, together with the documents properly before the Court, are insufficient as a matter of law to establish the asserted violations of the FCRA, FDCPA and TCPA, fail to state a claim upon which relief can be granted and should be dismissed.

3. Also as set forth in detail in Defendants’ Memorandum of Law in support of this Motion, the factual allegations in the First Amended Complaint, together with the documents

properly before the Court, are insufficient as a matter of law to establish personal jurisdiction over Defendant Lawrence M. Nessonson and should be dismissed pursuant to Rule12(b)(4) of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants respectfully request the Court enter an Order dismissing Plaintiff's First Amended Complaint pursuant to Rule12(b)(4) and (6) of the Federal Rules of Civil Procedure, and awarding Defendants such other and further relief as the Court deems just and proper.

Dated: May 5, 2014.

Respectfully submitted,

/s/ William J. Allen
William J. Allen
Attorney for Defendants
North Carolina State Bar No. 24916
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Certificate of Service

I, William J. Allen, hereby certify that on this date I served the foregoing **MOTION TO DISMISS PURSUANT TO F.R.C.P.12(b)(4) and(6), DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS AND DECLARATION OF LAWRENCE M. NESSENSON and DECLARATION OF WILLIAM J. ALLEN** upon all interested parties by depositing copy thereof in the United States mail in Matthews, North Carolina, first class postage prepaid and addressed as follows:

Timothy P. Danehy
PO Box 301
Kitrell, NC 27544-0301

This the 5th day of May, 2014.

/s/ William J. Allen
William J. Allen
Attorney for Defendants
North Carolina State Bar No. 24916
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